



Zoning Enforcement Officer

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INTERDEPARTMENTAL COMMUNICATION

To: Chairman & Members of the Board
Zoning Board of Appeals

Date: May 29, 2014

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

Subject: Special Permit #14-03
Zoning Bylaw Section 8.2.3 – Extending a Nonconforming Use
Construct Addition to Existing Multi-Family Structure in R-A (Residence A) Zoning District

Location: 5 Harvard Court, Acton, MA 01720
Petitioner: Michael Murphy, 7 Strawberry Hill Road, Acton, MA 01720
Owner: 5 Harvard Court, LLC., 2 Ladyslipper Lane, Acton, MA 01720
Zoning: Residence A (R-A)
Groundwater Protection District Zone 3
Proposed Use: Residential
Registry of Deeds: Deed Book – 605592; Page – 247
Plan No. 296 of 1970
Map/Parcel: E-5/32
Hearing Date: June 2, 2014
Decision Due: August 31, 2014

Introduction:

The petitioner, Mr. Michael Murphy, is requesting a Special Permit in order to allow for the construction of a new addition to the rear of an existing residential dwelling. The petitioner has indicated that the addition is necessary to create a single level living space for the home owner who is unable to climb stairs. The proposed expansion is a one-story addition (approximately 22'-0" x 12'-6") which expands the habitable interior space of the dwelling through the creation of a new bedroom and a three piece full bathroom. A new 6'-0" x 8'-0" deck is also proposed off the side of the bedroom. It is unclear from the drawings currently submitted, but it does not appear that there is any below-grade basement space proposed. There are no height dimensions identified specifically for the proposed addition, but being a single story addition, the height will be less than the maximum permitted. The overall proposed new square footage of the bedroom and bathrooms is approximately 275 square feet. As per the Town of Acton Assessor's Office information, the existing structure was constructed in 1966.

This application is before the Zoning Board of Appeals due to the following non-conformities:

5.3.2.1 In the R-A District, residential USES may be established at a density of up to five DWELLING UNITS per acre, subject to the standards set forth in the Table of Standard Dimensional Regulations. If such USES are established as single FAMILY DWELLING UNITS, the standards set forth in the Table of Standard Dimensional Regulations may be reduced provided that the following alternative standards are met:

- a) Minimum LOT area: 8,000 square feet;
- b) Minimum LOT FRONTAGE: 50 feet;
- c) Minimum Front Yard: 15 feet;
- d) All other dimensional regulations: as set forth for the R-2 District.

According to information obtained from the Town of Acton's Assessor's Office, the subject lot is approximately 20,454 square feet (0.47 acres) in total lot area. The subject lot area would permit a maximum of 2½ dwelling units to be constructed, however, the existing structure is a 4-unit multi-family building.

Relevant zoning information for the R-A (Residence A) Zoning District and subject site/property is summarized in the following table:

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	100,000 ft ²	20,454 ft ²	20,454 ft ²
Min. Lot Frontage (ft)	200'-0"	161'-5"	161'-5"
Min. Front Yard (ft) - South	30'-0"	30'-0"	30'-0"
Min. Side Yard (ft) – East	10'-0"	16'-0"	16'-0"
Min. Side Yard (ft) – West	10'-0"	17'-0"	12'-0" *
Min. Rear Yard (ft) - North	10'-0"	44'-0"	41'-6" **
Max. Building Height (ft)	36'-0"	Unknown (<36)	Unknown (<36) ***

* The minimum side yard setback is measured from the side property line to the nearest and/or closest point of any building or structure. Although the new bedroom and bathroom end approximately 1'-0" before the existing garage, the new proposed deck will project outward an additional approximately 5'-0" towards the side property line. Therefore, the side yard setback is measured to the closest point of the proposed deck, which will result in an approximately 12'-0" setback to the property line.

** The minimum rear yard setback is measured from the rear property line to the nearest and/or closest edge or point of any building or structure. The new proposed bedroom and bathroom will project further outward beyond the existing rear wall of the dwelling an additional approximately 2'-6" towards the rear property line. Therefore, the rear yard setback is measured to the closest point of the proposed addition, which will result in an approximately 41'-6" setback to the rear property line.

*** The architectural plans currently submitted as part of the subject application do not indicate the height of the new addition or the existing dwelling. A review of the drawings provided would seem to conclude that both the existing dwelling and the new proposed addition would not exceed the 36'-0" maximum height limitation.

Applicable Town of Acton Zoning Bylaw Sections:

8.2.3 Extending a Nonconforming USE -

8.2.3.1 In a Residential District a nonconforming USE may not be extended in area, except that,

- a) nonconforming Two-FAMILY Dwellings may be extended by right, and
- b) nonconforming Multifamily Dwellings may be extended by special permit from the Board of Appeals.

The extension of a nonconforming Two-FAMILY Dwelling or Multifamily Dwelling USE shall be subject to the applicable dimensional controls of this Bylaw and shall not result in an increase in the number of DWELLING UNITS, unless the dwelling qualifies for a Dwelling Conversion in accordance with Section 3.3.4 of this Bylaw.

8.2.3.2 In all other Districts, a nonconforming USE may be extended in area by special permit from the Board of Appeals.